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11
12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION

15 UNITED STATES OF AMERICA,) No.: CR 05-00431 CRB
16 Plaintiff,) PARTIES' STIPULATION AND
17 v.) PROPOSED ORDER CONTINUING
18 MIGUEL ANGEL MARCELO-CORTEZ,) STATUS HEARING AND EXCLUDING
19 Defendant.) TIME UNDER 18 U.S.C. § 3161(h)(8)(A)

20 The parties stipulate and agree, and the Court finds and holds, as follows:

21 1. The parties appeared on the instant matter on September 7, 2005 for a status conference.

22 At that time, defendant indicated that he was dissatisfied with the representation of Assistant
23 Federal Public Defender Ronald Tyler. After an *ex parte* hearing on this issue, the Honorable
24 Charles R. Breyer put the matter over until October 5, 2005 to allow for advisory counsel to meet
25 with defendant to discuss defendant's concerns about his legal representation, and time was
excluded pursuant to Title 18 U.S.C. § 1361, et. seq.

26 2. At the October 5, 2005 initial appearance, Mr. Tyler indicated that advisory counsel had
27 not yet had the opportunity to meet with the defendant, and requested a continuance based upon
28 effective preparation of counsel. The court set a date for a status hearing for November 2, 2005

at 2:15 p.m. and excluded time under 18 U.S.C. § 3161, et seq.

3. In light of the foregoing facts, the failure to grant the requested exclusion would unreasonably deny counsel for the defense the reasonable time necessary for effective preparation, taking into account the exercise of due diligence, and might deny defendant reasonable time to obtain new counsel, should he opt to do so. See 18 U.S.C. § 3161(h)(8)(A), (B)(iv). The ends of justice would be served by the Court excluding the proposed time period. These ends outweigh the best interest of the public and the defendant in a speedy trial. See id. § 3161(h)(8)(A).

4. For the reasons stated, the time period from September 7, 2005 through November 2, 2005 shall be excluded from the calculation of time under the Speedy Trial Act.

SO STIPULATED.

DATED: 10/19/05 Respectfully Submitted,

Respectfully Submitted,

/s/
MICHELLE MORGAN-KELLY
Assistant United States Attorney

DATED: 10/20/05

RONALD TYLER
Counsel for Miguel Angel Marcelo-Cortez

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: October 24 2005

